

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DAYS INN WORLDWIDE, INC.,)	
)	
Plaintiff,)	
)	
v.)	CAUSE NO.: 1:08-CV-124-TS
)	
EXHIBIT CHICAGO, INC., and)	
KHURSHEED SHAIKH,)	
)	
Defendants.)	

OPINION and ORDER

This matter is before the Court on the Magistrate Judge’s Report and Recommendation [DE 27], filed on February 12, 2009, recommending that the Court: (1) grant the Plaintiff’s Motion for Default Judgment [DE 14], (2) enter default judgment against the Defendants (Exhibit Chicago, Inc., and its guarantor, Khursheed Shaikh), and (3) award monetary damages in favor of the Plaintiff and against the Defendants, jointly and severally.

A judge may refer a dispositive matter to a magistrate judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and Northern District of Indiana Local Rule 72.1(d)(1). On December 17, 2008, this Court assigned Magistrate Judge Roger B. Cosbey to prepare a report and recommendation on the default judgment motion. Magistrate Judge Cosbey filed his Report and Recommendation (Rep. & Rec.) [DE 27] on February 12, 2009. At the end of the Report and Recommendation, he summarized the requirements of Federal Rule of Civil Procedure 72(b)(2), stating “that within ten days after being served with a copy of this recommended disposition a party may serve and file *specific*, written *objections* to the proposed findings or recommendations.” (Rep. & Rec. 19) (emphasis added).

This Court's review of the Magistrate Judge Cosbey's Report and Recommendation is governed by 28 U.S.C. § 636(b)(1)(C), which provides in part:

A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings and recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

28 U.S.C. § 636(b)(1)(C). Like Federal Rule of Civil Procedure 72(b)(2), the statute requires objections to the Report and Recommendations to be made within ten days of service of a copy of the Report and Recommendation. *Id.*

Defendant Shaikh filed an Objection [DE 28] on February 17, 2009. The one-page handwritten document states: "I would like to objection [*sic*] this matter for claim for pre-judgment interest on recurring fees." (Def. Obj. 1.) The document also has four numbered entries: "(1) Supplement affidavit in support of Pla[i]ntiff's Motion for Default Judgment and Damages Against Defendants Exhibit Chicago, Inc[.] (2) Finding of fact and conclusions of law[.] (3) Claim for actual damages[.] (4) Finding facts[.]" (*Id.*)

Even though the Plaintiff's filing does not contain a specific basis for his objection or cite to legal authority, the Seventh Circuit has decided that is sufficient enough to trigger *de novo* review. *United States v. Charles*, 476 F.3d 492, 495–97 (7th Cir. 2007) (ruling that generally objecting, without a specified basis or legal authority, to a magistrate's recommendation, triggers *de novo* review); *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 741 (7th Cir. 1999) ("Our interpretation of specific as used in Rule 72(b) understands the term to require a party only to specify each issue for which review is sought and not the factual or legal basis of the objection.").

In the first numbered entry, the Defendant appears to object to the Plaintiff's Supplemental Affidavit in Support of Plaintiff's Motion for Default Judgment and Damages Against Defendants Exhibit Chicago, Inc., and Khursheed Shaikh [DE 25], filed on February 4, 2009. His other three numbered objections appear to object to portions of the Magistrate Judge's Report and Recommendation: the findings of facts (pages 4–6) and conclusions of law (pages 7–17). The Defendant's Objection also mentioned the prejudgment interest on the recurring fees. In light of this, the Court has conducted a *de novo* review of the entire Report and Recommendation, including its finding of facts and conclusions of law regarding the Motion for Default Judgment and the request for all the types of damages. The Court has also carefully reviewed the submissions of the parties.

After conducting this *de novo* review, the Court finds that the Magistrate Judge's findings of facts, conclusions of law, and calculations of damages are correct. If the Plaintiff had made more specific objections, as directed by Federal Rule of Civil Procedure 72(b), the Court would have addressed and analyzed those issues. However, despite the notice and warning at the end of the Report and Recommendation, the Plaintiff made only a general objection to the entire document. Nonetheless, this Court has reviewed all aspects of the Report and Recommendation *de novo* and found that it is correct.

The Defendant's objection also mentions the Supplemental Affidavit in Support of Plaintiff's Motion for Default Judgment and Damages Against Defendants Exhibit Chicago, Inc., and Khursheed Shaikh [DE 25], which was filed on February 4, 2009. It is not clear whether the Defendant can challenge this document at this stage in the proceedings. In any event, a review of the Supplemental Affidavit and the facts stated therein makes clear that they are based on the

personal knowledge of the affiant, Kelly Krug, Manager of Compliance for the Plaintiff. The Defendant has not provided a basis to strike, disregard, or discount the document, and the Court finds no such basis to do so.

CONCLUSION

This Court finds that the Report and Recommendation has correctly resolved the issues in this case. Therefore, the Court ADOPTS the Report and Recommendation on the Plaintiff's Motion for Default Judgment in its entirety and on the issue of damages owed to the Plaintiff.

For the foregoing reasons, the Court OVERRULES the Plaintiff's Objection [DE 28], ADOPTS the Magistrate Judge's Report and Recommendation [DE 27]. Accordingly, the Plaintiff's Motion for Default Judgment [DE 14] is GRANTED. The Clerk is DIRECTED to enter judgment in favor of the Plaintiff and against the Defendants in the amount specified in the Report and Recommendation.

So ORDERED on April 14, 2009.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT